

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

J.V. A MINOR, THROUGH HER)
FATHER AND NEXT FRIEND,)
J.V. AN ADULT,)
)
Plaintiff,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Defendant.)

Civil Number 3:18-cv-1012-SMY-GCS

**JOINT MOTION FOR CONTINUANCE OF THE TRIAL DATE, THE DISPOSITIVE
MOTIONS DEADLINE, AND THE DISCOVERY DEADLINE**

The parties, by and through their respective attorneys, jointly request a continuance of the trial date, as well as the discovery and dispositive motions deadlines.

1. This is the first request for any extension of time by either party in this case.
2. The case is currently set for trial on September 30, 2019, with a discovery deadline of May 9, 2019, and a dispositive motions deadline of May 24, 2019.
3. The parties discussed this matter with Magistrate Judge Sison by telephone conference on May 22, 2019, and Magistrate Judge Sison recommended the parties file a motion with the District Judge. (Doc. 19). Magistrate Judge Sison has set this matter for a settlement conference on August 6, 2019. (Doc. 20).
4. Attorneys for the parties have worked cooperatively and diligently to move this matter forward but have experienced delays due to circumstances beyond their control. The parties have completed written discovery but are still in the process of taking party depositions.

5. The 35-day government shutdown in December 2018 and January 2019 caused delay in scheduling and traveling out-of-town for depositions. There was also some delay in obtaining relevant records from St. Clair County Child Advocacy, which the parties eventually overcame by jointly seeking and obtaining a protective order.
6. The greatest part of the delay is attributable to difficulties in obtaining the deposition of a key treating therapist in Georgia, where the minor plaintiff and the minor plaintiff's family have resided since 2015. The therapist in question saw the minor plaintiff periodically from 2017 through 2018. The plaintiff's attorney made numerous unsuccessful attempts over a period of months to contact the therapist and schedule his deposition. In order to minimize the costs of this litigation, the parties agreed to postpone travel to Georgia for depositions of the minor plaintiff and the minor plaintiff's parents until the deposition of the therapist could also be arranged.
7. Finally, in April 2019, the plaintiff's counsel was able to arrange for the deposition of a second treating therapist who only began treating the minor plaintiff in March 2019. The parties proceeded with the depositions of the plaintiffs and the most recent therapist in Georgia on May 9 and 10, 2019, although the primary therapist failed to appear for his deposition although he previously advised plaintiff's counsel that he would appear for that deposition in Georgia.
8. The parties now have five depositions of government witnesses scheduled over the next few weeks.
9. The parties have not yet disclosed any expert witnesses, neither retained nor non-retained.

10. Essentially, the parties are about five months behind the anticipated discovery schedule. (Doc. 12-1).

11. The United States may have a dispositive motion based on the discretionary function exception, an affirmative defense the government pled in its answer. Counsel for the government cannot make a complete and final assessment of whether such a motion would be appropriate until depositions of fact witnesses are complete.

In conclusion, for all of the reasons stated above, the parties hereby request that the trial date, as well as the discovery and dispositive motions deadlines, all be continued approximately five months. If granted, the case would still be on track to go to trial in February or March 2020, still within two years of when the case was filed.

/s/ Alan G. Pirtle (with consent)
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Certificate of Service

I hereby certify that on May 23, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing(s) to the following:

Alan G. Pirtle

and I hereby certify that on May 23, 2019, I also mailed by United States Postal Service, the document to the following non-registered participant:

None.

s/ Nathan E. Wyatt

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